

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration

49 CFR Part 173

(Docket No. HM-148E, Notice No. 87-1)

Exceptions for Specified Quantities of
Radioactive Materials

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Research and Special Programs Administration (RSPA) proposes to renew for two years the exceptions (statutory exemptions) for specified quantities of radioactive materials found in 49 CFR 173.4, 173.421-1 and 173.421-2. This action is necessary to update the exceptions in these sections which permit the transportation by passenger-carrying aircraft of certain quantities of radioactive material under the existing restrictions. Updating these exceptions will prevent the disruption of routine and ongoing shipments which have been made safely for 12 years under the existing exceptions. These materials do not present a significant hazard to passengers or crew on an aircraft.

DATE: Comments must be received on or before April 1, 1987.

ADDRESS: Address comments to Docket Branch (DHM-30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Branch is located in Room 8428 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5046. Public dockets may be reviewed between the hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lee Jackson (202) 366-4488, Office of Hazardous Materials Transportation, RSPA, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION: On May 2, 1985, RSPA published an emergency final rule under Docket HM-149D [50 FR 18867]. In this final rule, RSPA renewed for two years the exceptions (statutory exemptions) for specified quantities of radioactive materials found in 49 CFR 173.4, 173.421-1 and 173.421-2. This

action was taken on an emergency basis because the existing exceptions were due to expire on May 3, 1985.

In accordance with section 107 of the Hazardous Materials Transportation Act (HMTA 49 U.S.C. 1806) governing exemptions, the exceptions provided in §§ 173.4, 173.421-1 and 173.421-2 are limited to two years unless reexamined and renewed. These exceptions expire on May 2, 1987. Historically, these exceptions have been issued and subsequently renewed under Docket HM-149. The legal background and regulatory history of these exceptions can be found in Docket HM-149C (46 FR 24184) published on April 30, 1981, and in preceding amendments dating back to April 17, 1975 [40 FR 17141].

In accordance with 49 CFR 106.13 and 49 U.S.C. 1806, RSPA is once again reexamining the provisions of the exceptions provided in §§ 173.4, 173.421-1 and 173.421-2 and proposes to extend the effective dates of these exceptions. Specifically, in §§ 173.4(b), 173.421-1(b)(2) and 173.421-2(d), the date May 2, 1987 would be amended to read "May 2, 1989". These amendments would permit the continued transportation of specified quantities of radioactive material by passenger-carrying aircraft.

Administrative Notices

Executive Order 12291

The RSPA has determined that the effect of this proposed rule will not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures [44 FR 11034] and requires neither a regulatory impact analysis, nor an environmental impact statement under the National Environmental Policy Act [49 U.S.C. 4321 et seq.]. A regulatory evaluation is available for review in the docket.

Impact of Small Entities

Based on limited information concerning the size and nature of the entities likely to be affected, I certify this rule will not, as promulgated, have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, Part 173 of Title 49 of the Code of Federal Regulations would be amended as follows:

PART 173—SHIPPERS—GENERAL
REQUIREMENTS FOR SHIPMENTS
AND PACKAGINGS

1. The authority citation for Part 173 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808, 1809; 49 CFR 1.53(e), 1.53, Appendix A to Part 1, 49 U.S.C. 1655, 1655(c).

§ 173.4 [Amended]

2. In paragraph (b) of § 173.4, the year "1987" would be changed to read "1989".

§ 173.421-1 [Amended]

3. In paragraph (b)(2) of § 173.421-1, the year "1987" would be changed to read "1989".

§ 173.421-2 [Amended]

4. In paragraph (d) of § 173.421-2, the year "1987" would be changed to read "1989".

Issued in Washington, DC, on February 25, 1987, under the authority delegated in 49 CFR Part 1, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 87-4323 Filed 2-27-87; 8:45 am]

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Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-149E; Amdt. No. 173-202]

Exceptions for Specified Quantities of Radioactive Materials

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Research and Special Programs Administration (RSPA) is renewing for two years the exceptions (statutory exemptions) for specified quantities of radioactive materials found in 49 CFR 173.4, 173.421-1 and 173.421-2. These amendments are necessary to permit the transportation by passenger-carrying aircraft of certain quantities of radioactive materials under existing provisions. Renewal of these exceptions will prevent the disruption of routine and ongoing shipments which have been made safely for 12 years under the existing exceptions. These materials do not present a significant hazard to passengers or crew on an aircraft.

EFFECTIVE DATE: May 2, 1987.

FOR FURTHER INFORMATION CONTACT: Lee Jackson, (202) 366-4488, Office of Hazardous Materials Transportation, RSPA, Washington DC 20590.

SUPPLEMENTARY INFORMATION: On March 2, 1987, RSPA published a notice in the Federal Register [Docket HM-149E, Notice No. 87-1, 52 FR 6178]. This notice requested public comment on RSPA amending the Hazardous Material Regulations (HMR) by renewing for two years the exceptions (statutory exemptions) found in 49 CFR 173.4, 173.421-1 and 173.421-2 for specified quantities of radioactive materials.

In accordance with section 107 of the Hazardous Transportation Act (HTA, 49 U.S.C. 1806) governing exemptions, the exceptions provided in §§ 173.4, 173.421-1 and 173.421-2 are limited to two years unless reexamined and renewed. These exceptions expire on May 2, 1987. Historically, these exceptions have been issued and subsequently renewed under Docket HM-149. The legal background and regulatory history of these exceptions can be found in Docket HM-149C [46 FR 24184] published on April 30, 1981, and in preceding amendments dating back to April 17, 1975 [40 FR 17141].

Two commenters responded to Notice 87-1. Both commenters fully supported updating the exceptions contained in the

proposed rule. Their support was based on their experience shipping these materials and the excellent safety record associated with the transportation of these materials.

In accordance with 49 U.S.C. 1806 and 49 CFR 106.13, RSPA has reexamined the provisions of the exceptions provided in §§ 173.4, 173.421-1 and 173.421-2. Predicated on this review and based on the very limited hazard posed by these materials, RSPA is extending the effective dates of the exceptions contained in these sections through May 2, 1989.

Administrative Notices

Executive Order 12291

The RSPA has determined that the effect of this final rule will not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures [44 FR 11034] and requires neither a regulatory impact analysis, nor an environmental impact statement under the National Environmental Policy Act [49 U.S.C. 4321 et seq.]. A regulatory evaluation is available for review in the docket.

Impact on Small Entities

Based on limited information concerning the size and nature of the entities likely to be affected, I certify this rule will not, as promulgated, have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packing and containers.

In consideration of the foregoing, Part 173 of Title 49 of the Code of Federal Regulations is amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The Authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808, 1809; 49 CFR 1.53(e), 1.53, Appendix A to Part 1, 49 U.S.C. 1655, 1655(c).

§ 173.4 [Amended]

2. In paragraph (b) of § 173.4, the year "1987" is changed to read "1989".

§ 173.421-1 [Amended]

3. In paragraph (b)(2) of § 173.421-1, the year "1987" is changed to read "1989".

§ 173.421-2 [Amended]

4. In paragraph (d) of § 173.421-2, the year "1987" is changed to read "1989".

Issued in Washington, DC, on April 28, 1987 under the authority delegated in 49 CFR 1.53.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 87-9884 Filed 4-30-87; 8:45 am]

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